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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 18.04.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice J.A.K.SAMPATHKUMAR

Habeas Corpus Petition No.93 of 2006

M. Geetha ... Petitioner

vs.

1. State of Tamil Nadu
rep. by the Secretary
Prohibition and Excise Dept.,
Fort St. George,
Madras-600 009.

2. The District Magistrate
& District Collector,
Vellore Dt., ... Respondents

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus to direct the respondents to produce the detenue namely Manokaran, S/o. Govindan, before this Court, who is detained as per the order of detention passed by the second respondent in C3.D.O.No.56/2005 dated 22.12.05 and confined at Central Prison, Vellore, and set him at liberty; and further direction to call for the records relating to the above said order and quash the same.

For Petitioner : Mr.P. Venkatasubramanian
for Mr. P. Kumaresan

For Respondents : Mr.Abudu Kumar Rajarathinam,
Govt. Advocate (Crl. Side)

O R D E R

(Order of the Court was made by P.SATHASIVAM, J.)

The petitioner herein challenges the impugned order of detention, dated 22.12.2005, detaining her husband as 'Boot-Legger'

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as contemplated under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982).

2. Heard learned counsel for the petitioner as well as learned Government Advocate for the respondents.

3. At the foremost, learned counsel for the petitioner submitted that there was delay in disposal of the representation of the detenu, which vitiates the ultimate order of detention. In respect of the same, learned Government Advocate has produced the particulars, which show that the representation of the detenu, dated Nil was received by the Government on 23.01.2006 and remarks were called for on the same day. The particulars of the Collectorate show that the intimation was received from the Government on 28.01.2006 and remarks were, in turn, called for from the Sponsoring Authority on 30.01.2006, however, the same were received from the Sponsoring Authority only on 07.02.2006, sent to the Government on 10.02.2006 and the same was received by it on the same day. The File was submitted on 10.02.2006 and the same was dealt with by the Under Secretary and the Deputy Secretary on 13.02.2006. Finally, the Minister for Prohibition and Excise passed orders on 13.02.2006. The rejection letter was prepared on 17.02.2006 and sent to the Prison on 20.02.2006 and was served on the detenue on 22.02.2006.

4. As rightly pointed out, though remarks were called for from the Sponsoring Authority on 28.01.2006, the same were received by the Collectorate only on 07.02.2006. There is no explanation at all for taking time till 07.02.2006 by the Sponsoring Authority for collecting the remarks. We hold that, in the absence of proper explanation by the person concerned, the delay is on the higher side, which caused prejudice to the detenu in considering his representation effectively. On this ground, we quash the impugned order of detention.

5. Accordingly, the Habeas Corpus Petition is allowed and the impugned order of detention is quashed. The detenu is directed to be set at liberty forthwith from the custody unless he is required in some other case or cause.

kh

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To

1. District Collector,
   Vellore.
2. Secretary to Government,
   Prohibition and Excise
   Department, Fort St. George,
   Chennai 600 009.
3. The Superintendent,
   Central Prison, Vellore.
   (In duplicate for
   communication to the detenue)
4. The Joint Secretary to
   Government, Public
   (Law and Order) Department,
   Fort St. George, Chennai-9.
5. The Public Prosecutor,
   High Court, Madras.

hpr (co)

dv/5.5.06

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